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SUBJECT: DOMINICAN REPUBLIC -- 2009 TIP REPORT: PRESS
GUIDANCE AND DEMARCHE

REF: (A) STATE 59732 (B) STATE 005577

11. This is an action cable; see paras 5 through 7 and 10.

12. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

13. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of the Dominican Republic of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of the Dominican Republic and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

14. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

15. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of the Dominican Republic of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 18. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

16. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing

the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of the Dominican Republic's country narrative in the 2009 TIP Report:

the Dominican Republic (Tier 2 Watch List)

The Dominican Republic is a source, transit, and destination country for men, women, and children trafficked for the purposes of commercial sexual exploitation and forced labor. Dominican women are trafficked for commercial sexual exploitation to Argentina, Australia, Brazil, Costa Rica, Cyprus, Panama, Haiti, Jamaica, the Netherlands, Panama, Slovenia, Suriname, Switzerland, Turkey, and Venezuela. A significant number of women, boys, and girls are trafficked within the country for forced prostitution and domestic servitude. In some cases, parents push children into prostitution to help support the family. Child sex tourism is a problem, particularly in coastal resort areas, with child sex tourists arriving year-round from various countries, particularly Spain, Italy, Germany, Canada, and the United States and reportedly numbering in the thousands. Haitian nationals, including children, who voluntarily migrate illegally to the Dominican Republic may subsequently be subjected to forced labor in the service, construction, and agriculture sectors.

The Government of the Dominican Republic does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these overall significant efforts, the government did not show evidence of progress in prosecuting and punishing trafficking offenders including complicit officials; therefore, the Dominican Republic is placed on Tier 2 Watch List. The Dominican government increased its efforts to educate the public about the dangers of trafficking, improved its assistance to victims, announced a national plan to combat trafficking and took some disciplinary action against lower-level officials suspected of complicity in trafficking activity.

Recommendations for the Dominican Republic: Intensify efforts to prosecute and punish trafficking offenders, especially public officials complicit in or facilitating human trafficking; increase investigations into potential labor trafficking situations; continue to increase victim assistance and shelter services; provide greater legal protections for undocumented and foreign trafficking victims; increase prevention and demand-reduction efforts; intensify efforts to identify and care for all trafficking victims; and continue to increase anti-trafficking training for government and judicial officials.

Prosecution

The government modestly increased law-enforcement efforts against some trafficking offenders, and began to investigate and punish lower-level public officials for complicity in trafficking activity over the last year. Dominican law prohibits all forms of trafficking through its comprehensive anti-trafficking Law 137-03, which prescribes penalties of up to 20 years' imprisonment. Such penalties are sufficiently stringent and commensurate with those prescribed for other

grave offenses, such as rape. In 2008, the government continued several trafficking investigations. Since 2007, there have been no convictions on trafficking charges under Law 137-03, but the government made a greater effort during the year to differentiate between alien smuggling and human trafficking crimes, which are prohibited under the same law and are often confused. Although the Government initiated an investigation into press reports from 2007 that high-level officials were directly involved in the smuggling and trafficking of Chinese nationals, it demonstrated no progress on this investigation during 2008. Lack of resources, corruption, and generally weak rule of law limit the government's ability to address trafficking issues, and allegations of official complicity in trafficking continued. No senior officials were investigated or prosecuted; since August 2008, however, 45 inspectors from the Migration Directorate were removed from their positions for possible involvement in trafficking. Five of these former inspectors are under active investigation and two are in preventative detention. Other lower-level officials have been suspended or disciplined. During the reporting period, the government cooperated with U.S. law enforcement agencies and contributed to an international case involving the trafficking of Dominican women to Switzerland. As many trafficking victims enter the island with legitimate documents through regular ports of entry, IOM and the Office of the Undersecretary for Consular and Migratory Affairs trained migration inspectors on detecting false and altered documents, inspection of travel documents and visas, detecting imposters, and differentiating between smuggling clients and trafficking victims.

Protection

The government improved its efforts to protect trafficking victims, although it continued to rely heavily on NGOs and international organizations for the bulk of shelter and protection services offered to victims. The Comité Inter-institucional de Protección a la Mujer Migrante, in cooperation with the Ministry for Women and an NGO, offered victims legal and psychological assistance. The government contributed funds to a religious order which assisted trafficking victims at its refugee centers around the country. IOM also used these facilities to assist victims. An NGO operated El Centro de Acogida, a center for repatriated Dominican trafficked women, which provided medical and legal services, employment assistance, and continued education. Shelters for child trafficking victims were run by the Consejo Nacional para la Niñez y la Adolescencia, a government agency. The Dominican Criminal Procedure Code contains mechanisms for the protection of witnesses and victims, though these protections were largely limited to victims who were willing to testify in court proceedings. Victims' rights were generally respected once they were recognized as victims, and they were not typically jailed or penalized for unlawful acts committed as a direct result of being trafficked. Dominican authorities encouraged victims to assist with the investigation and prosecution of their traffickers. Victims without identity documents or in illegal status generally had difficulty accessing protective services. Out of a group of 14 trafficked Ecuadorian women, one remained in the Dominican Republic to help police with the investigation and prosecution of their traffickers. Victims and traffickers sometimes struck deals, usually via their attorneys, whereby victims received compensation from their traffickers in lieu of pursuing a criminal case. The government trained consular officials posted abroad to recognize and assist Dominican nationals trafficked overseas. The government did not provide foreign victims with clear legal alternatives to their removal, but even so it did not remove them to countries where they face retribution. In one case it provided long-term residency.

Prevention

The government continued to increase its prevention efforts during the year. The inter-agency National Commission Against Trafficking announced its national action plan in

December 2008. The Prevention Unit of the Department of Alien Smuggling and Trafficking in Persons, working with the Ministries of Labor and Education, warned children at schools around the country of the dangers of alien smuggling, commercial sexual exploitation, and trafficking. The Attorney General, Migration Directorate, Navy, Secretary of State for Women, and Programa Radial also ran anti-trafficking information campaigns. Notices now posted in Santo Domingo's international airport list the penalties under Dominican law for the criminal offense of commercial sexual exploitation of children. Prostitution of adults is legal, though police raided brothels as a means to address demand for commercial sex acts with children and to look for underage girls engaging in prostitution. The government also made efforts to reduce demand for commercial sexual acts by prosecuting foreign pedophiles for sexually exploiting minors.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of

trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

11. The following is press guidance provided for Post to use with local media.

Q1. Why was the DR again given a ranking of Tier 2 Watch

List?

¶A. Although the government increased its efforts to educate the public about the dangers of trafficking, improved its assistance to victims, announced a national plan to combat trafficking and took some disciplinary action against lower-level officials suspected of complicity in trafficking activity, it did not show evidence of progress in prosecuting and punishing trafficking offenders including higher-level officials who may be complicit in trafficking activities.

Q2. What is the nature of the trafficking situation in the DR?

¶A. The Dominican Republic is a source, transit, and destination country for men, women, and children trafficked for the purposes of commercial sexual exploitation and forced labor. Dominican women are trafficked for commercial sexual exploitation throughout the Western Hemisphere and to Europe.

A significant number of women, boys, and girls are trafficked within the country for forced prostitution and domestic servitude. In some cases, parents push children into prostitution to help support the family. Child sex tourism is a problem, particularly in coastal resort areas, with reportedly thousands of child sex tourists arriving year-round from various countries. Haitian nationals, including children, who voluntarily migrate illegally to the Dominican Republic may subsequently be subjected to forced labor in the service, construction, and agriculture sectors.

Q3. How can the DR show progress in its anti-trafficking efforts?

¶A. In order to show progress, the government could: intensify efforts to prosecute and punish trafficking offenders, especially public officials complicit in or facilitating human trafficking; increase investigations into potential labor trafficking situations; continue increases in funding for victim assistance and shelter services; provide greater legal protections for undocumented and foreign trafficking victims; and continue anti-trafficking training for government and judicial officials.

¶12. The Department appreciates posts, assistance with the preceding action requests.

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